AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE   Page 20
Serial Number:09/903,448   Dkt: 2050.001US5
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
  AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

REMARKS

This responds to the Final Office Action mailed on September 3, 2008.

Claims 68, 72, 82-85, 87-88, 90, 91, 98, 101, 104-106, 110, 123, 125, 129, 139, 246-248, 250, 253-263 are amended, no claims are currently canceled, and no claims are currently added. As a result, claims 68-143 and 246-263 remain pending in this application.

Rejections of the Claims Under § 103

The Rejection Over Florin and Rhoades

Claims 68-78, 82-83, 85-94, 97-104, 106-116, 120-121, 123-132, 135-142 and 246-263 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin (U.S. Patent No. 5,583,560) in view of Rhoades (U.S. Patent No. 5,181,107). This response will address each independent claim and the claims dependent therefrom separately.

Claims 68-85

The Office Action correctly states that Florin does not teach a transmission comprising executable code. (Office Action, p. 4) Because Florin does not teach a transmission comprising executable code, Florin does not disclose either any functionality of transmitted executable code or any operations dependent on that transmitted executable code functionality. However, claim 68, as amended, expressly addresses both. Claim 68, as amended, recites functionality of the executable code: "code to be executed at the client to cause display of interactive information associated with the television program;" and further recites specific acts occurring in response to that functionality: "detecting, at the server, a signal representing a viewer interaction with the interactive information."

The Office Action cites Rhoades to show a transmission comprising executable code. Rhoades relates to providing subscribers with access to information services stored at remote storage centers. The information services are accessed by a home computing assembly via a bi-directional telephone link. A cable TV broadcast channel is used uni-directionally to transmit

the selected information service program as digital streams of data to the home computing assembly. An information service software is transmitted to the home computing element from a remote storage center via the telephone link. The associated telephone line is dropped once the transmission of the information service software is completed. (Rhoades, 1: 10-24.) Therefore, in Rhoades, the information services provided to the home computing element from a remote storage location cannot be run contemporaneously with a television program. A user in Rhoades is permitted to switch between running an information service (where the video data of the information service is rendered to a television screen of the user) and regular television programming. (Rhoades, 6: 1-4.) Thus, Rhoades does not disclose displaying both the information service program and television programming at the same time.

Claim 68 as amended expressly recites that the executable code is "to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client."

Point already made   This feature is not disclosed or suggested in Rhoades, whether considered separately or in combination with Florin.   As will be set forth below, one or more of the distinctions of claim 68 over the combination of Florin and Rhoades will be applicable to additional claims in the application. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 68 and claims 69-86 dependent therefrom.

Claims 87-100

Claims 87, recites a method comprising "executing the executable code to display interactive information associated with the television program contemporaneously with the video data associated with the television program, the interactive information associated with the television program to show or describe an item to the television viewer." Thus, the same distinctions discussed above relative to claim 68 are applicable here. Accordingly, claim 87 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 87 and its dependent claims.

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE
Serial Number:09/903,448
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
    AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Page 22
Dkt: 2050.001US5

Claims 101-105

Claim 101 recites "providing to the client . . .executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client." Thus, claim 101 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 101 and its dependent claims.

Claims 106-124

As discussed above, with reference to claim 68, in Florin, the A/V connect module 66 switches and receives analog audio-visual signals and digital data from an audio-visual source, such as T/T cable, the video cassette recorder (VCR), etc. (See Florin, 8: 52-54.) But Florin does not disclose any configurations wherein the A/V connect module 66 may be configured to receive a computing application that comprises executable code. Neither does Florin discloses that the audio-visual source, such as T/T cable, the video cassette recorder (VCR), etc. or any other module or server can provide (e.g., to the A/V connect module) a computing application that comprises executable code. Thus, Florin does not disclose or suggest a server or any module configured to provide executable code or a client or any other module to receive executable code. As explained above, combining Rhoades with Florin does not yield an executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client. Neither does the combination of Rhoades and Florin yield a computer system, whether a server or a client, configured to perform this operation.

Claim 106 recites an interactive television system comprising "a server configured to transmit to a client in communication with the server, both television programming and a computing application comprising executable code, the executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client" and a client configured to "execute the executable code to cause display of interactive information associated with the television

program, while the video associated with the television program is being displayed." Thus, claim 106 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 106 and its dependent claims.

Claims 125-138

As discussed above, with reference to claim 106, Florin, whether considered separately or in combination with Rhoades, does not disclose a client or any module that may be configured to receive a computing application that comprises executable code. Florin also does not disclose or suggest a server or any module configured to provide a computing application comprising executable code or a client or any other module to receive such computing application. Claim 125 recites "a receiver configured to receive both television programming and a computing application comprising executable code" and a processing unit configured to "execute the computing application to cause display of interactive information associated with the television program, while the television program is being displayed at a display device associated with the processing unit." Thus, claim 125 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claims 68 and 106. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 125 and its dependent claims.

Claims 139-143

Claim 139 recites "a server configured to transmit to the client both television programming and a computing application comprising executable code, the executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 139 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 139 and its dependent claims.

Claim 246

Claim 246 recites a machine-readable medium, having instruction executable by a machine to cause the machine to perform operations comprising "executing the executable code to cause display of interactive information, while the television program is being displayed." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 246 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 246 and its dependent claims.

Claim 247

Claim 247 recites instructions to "provide to a client a television program and a computing application comprising executable code, the executable code to cause display, at the client, of interactive information associated with the television program, while the television program is being displayed at the client, the interactive information associated with the television program to show or describe an item to the television viewer." Thus, for the same reasons discussed above relative to claims 101, claim 247 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 247 and its dependent claims.

Claim 248

Claim 248 recites "using the server to provide, to the client, a television program and data for use by a computing application comprising executable code, the executable code to cause display, at the client, of interactive information associated with the television program, while the television program is being displayed at the client." Thus, claim 248 and its dependent claims are patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 248 and its dependent claims.

Claim 253

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE   Page 25
Serial Number:09/903,448   Dkt: 2050.001US5
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM, AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Claim 253 recites "executable code to cause display ... of interactive information associated with a television program, while the television program is being displayed at the client." Thus, claim 253 is patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 253 and its dependent claims.

Claim 254

Claim 254 recites "executable code to a client to cause display of interactive information associated with a television program, while the television program is being displayed at the client." Thus, claim 254 is patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 254 and its dependent claims.

Claim 255

Claim 255 recites a client configured to "executable code to cause display ... of interactive information associated with a television program, while the television program is being displayed at the client." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 255 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 255 and its dependent claims.

Claim 256

Claim 256 recites a processing unit configured to "executable code to cause display, at a client, of interactive information associated with a television program, while the television program is being displayed at the client." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 256 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 256 and its dependent claims.

Claim 257

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE   Page 26
Serial Number:09/903,448   Dkt: 2050.001US5
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
    AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Claim 257 recites an interactive television system to order an item comprising a server configured to provide data, to be used by a computing application comprising executable code, "the executable code to display interactive information associated with a television program, to a client, while the television program is being displayed at the client." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 257 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 257 and its dependent claims.

Claim 258

Claim 258 recites "executable code to display interactive information associated with a television program, while the television program is being displayed." Thus, claim 258 is patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claims 68 and 106. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 258 and its dependent claims.

Claim 259

Claim 259 recites "executable code to display interactive information associated with a television program, while the television program is being displayed." Thus, claim 259 is patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 259 and its dependent claims.

Claim 260

Claim 260 recites "providing data to be used by a computing application comprising executable code to a client to cause display of interactive information associated with a television program, while the television program is being displayed." Thus, claim 260 is patentable in view of Florin and Rhoades combination and should be allowed for at least the reasons articulated with respect to claim 68. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 260 and its dependent claims.

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE
Serial Number:09/903,448
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
    AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Page 27
Dkt: 2050.001US5

Claim 261

Claim 261 recites a client configured to "executable code to display interactive information associated with a television program, while the television program is being displayed." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 261 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 261 and its dependent claims.

Claim 262

Claim 262 recites a processing unit configured to "executable code to display interactive information associated with a television program, while the television program is being displayed." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 262 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 262 and its dependent claims.

Claim 263

Claim 263 recites " executable code to display interactive information associated with a television program, while video data associated with the television program is being displayed." Thus, for the same reasons discussed above relative to claims 106 and 125, claim 263 is patentable in view of Florin and Rhoades combination and should be allowed. Applicants therefore request the reconsideration and withdrawal of this rejection of claim 263 and its dependent claims.

The Rejection Over Florin, Rhoades and Coddington

Claims 79-81, 95-96, 117-119 and 133-134 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin (U.S. Patent No. 5,583,560) in view of Rhoades (U.S. Patent No. 5,181,107), in further view of Coddington (U.S. Patent No. 5,410,343).

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE   Page 28
Serial Number:09/903,448   Dkt: 2050.001US5
Filing Date: July 10, 2001
Title: APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM,
    AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM

Coddington describes video-on-demand services using public switched telephone network. (Coddington, Title.) Claims 79-81, 95-96, 117-119 and 133-134 depend on claims 68, 87, 106, and 125 respectively and therefore are patentable in view of the combination of Florin and Rhoades for the reasons discussed above. Combining Coddington with Florin and Rhoades does not cure the deficiencies of the previously-discussed Florin and Rhoades combination with respect to features present in claims 79-81, 95-96, 117-119 and 133-134 by virtue of their being dependent on their respective dependent claims. Applicants therefore request the reconsideration and withdrawal of this rejection of claims 79-81, 95-96, 117-119 and 133-134.

The Rejection Over Florin, Rhoades and Banker

Claims 84, 105, 122 and 143 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin (U.S. Patent No. 5,583,560) in view of Rhoades (U.S. Patent No. 5,181,107), in further view of Banker (U.S. Patent No. 5,485,221).

Banker describes subscription television system and terminal for enabling simultaneous display of multiple services. (Banker, Title.) Claims 4, 105, 122 and 143 depend on claims 68, 87, 106, and 125 respectively and therefore are patentable in view of the combination of Florin and Rhoades for the reasons discussed above. Combining Banker with Florin and Rhoades does not cure the deficiencies of the previously-discussed Florin and Rhoades combination with respect to features present in claims 79-81, 95-96, 117-119 and 133-134 by virtue of their being dependent on their respective dependent claims. Applicants therefore request the reconsideration and withdrawal of this rejection of claims 84, 105, 122 and 143.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 278-4052

Date __01/05/2009_____   By _____/Elena Dreszer/_____
                                          Elena B. Dreszer
                                          Reg. No. 55,128

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this __5__ day of September, 2008. January

_____John D. Gustav-Wrathall_____   _____
Name   Paralegal   Signature
     Schwegman, Lundberg & Woessner